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December 17, 2024

VIA: E-FILING

Honorable Matthew J. Skahill, USMJ
United States District Court of New Jersey
Mitchell H. Cohen Building & U.S. Courthouse
4th & Cooper Streets
Camden, NJ 08101

**Re: Manuel Pontes v. Rowan University
In the United States District Court District of New Jersey
Case No.: 18-CV-17317**

Dear Judge Skahill:

Please recall this office represents Plaintiff in connection with this matter. This will supplement Plaintiff's earlier submission regarding Defendant's request for sanctions, related to Plaintiff's inability to complete his deposition on January 16, 2023 (Doc. 133). This Court and Defendant will recall, I am sure, that Plaintiff, in fact, sat for his complete deposition within days after this Court lifted the medically necessary stay of 120 days put in place in March 2023.

Specifically, Nancy Pontes testified on November 25, 2023. She testified that she is a registered nurse, licensed in New Jersey. Further, she testified regarding Plaintiff's inability to attend his deposition on January 16, 2023, as follows:

[On January 16, 2023, Plaintiff was on a liquid only diet in preparation for an upcoming procedure. His being on a liquid only diet disturbed ~~messed up~~ his fluid balance.] Because of his existing Covid related dysautonomia, the food and electrolytes required to get blood into the brain are already out of balance. A liquid only diet messed up that balance even further. Thus, on January 16, 2023, Plaintiff was in a medical crisis.

Deposition of Nancy Pontes, excerpts of which are attached, at 110:16–115:1. Thus, notwithstanding Defendant's assertion that its request for sanctions is based on some something other than Plaintiff's failure to appear on January 16, 2023, it is in fact, based entirely on Plaintiff's failure to appear for his deposition on January 16, 2023. However, Nancy Pontes's testimony explains this failure in graphic detail. It was not, contrary to Defendant's assertion, motivated by some anarchic disrespect for this Court's orders, but rather because Plaintiff was in the middle of a medical crisis.

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As such, Plaintiff renews his request, stated in his previous request to this Court, that this Court deny defendants request for sanctions immediately.

Respectfully submitted,

Reger Rizzo & Darnall LLP

Michael J. Needleman /s/
Michael J. Needleman, Esquire

MJN/jab
Encl.

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1 I want to ask you specifically
2 about -- well, actually, before we do that, if
3 you would please, turn to the second page of that
4 document.
5 A. **Of the three or is it 03?**
6 Q. Of three, yes, please.
7 A. **Okay.**
8 Q. On the second page at the very bottom,
9 the last quarter of the page, do you see where it
10 says MJN/AA?
11 A. **It says, excuse me, what?**
12 Q. MJN/AA.
13 A. **Yes.**
14 Q. Do you see where I'm referring?
15 A. **Yes.**
16 Q. The person to whom you made reference
17 before, somebody with a name that started with A,
18 do you recall that?
19 A. **I think so, yes. I mean, I recall it,**
20 **but, yes, I think her name was A.**
21 Q. Do you recall that testimony?
22 A. **Yes.**
23 Q. Is it possible the person you were
24 referring to, her name was Aneesa?
25 A. **Yes.**

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1 Q. Yes, it is possible?
2 A. **I believe that's it.**
3 Q. And you believe that's it. Okay. If
4 you would, please, take a look a little further
5 back in Nancy Pontes-3 at -- it is -- well, it's
6 the last three pages of that document.
7 A. **Uh-huh.**
8 Q. Your -- the E-mail communications you
9 and I had back and forth?
10 A. **Uh-huh.**
11 Q. Let's start with the first one,
12 chronologically. That's January 17 of 2023. I'm
13 sorry to make you keep flipping around.
14 A. **I don't know why, it should have been**
15 **put in that order in the first place.**
16 Q. Yeah. But in any event. Do you see
17 where I'm referring? You sent an E-mail -- it
18 appears to be you sent an E-mail dated January
19 17, 2023 at 2:41 p.m. to me at the Regerlaw.com
20 address. Do you see where I'm referring? I'm
21 talking too fast.
22 A. **Yes.**
23 Q. Is January 17 before or after January
24 16th?
25 A. **After.**

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1 Q. Now, I am not nearly as well versed in
2 any of the medical information as you are. So
3 I'll ask you to explain some of what you're
4 talking about here.
5 A. **Okay.**
6 Q. In the second full paragraph, it looks
7 like you state -- and please tell me if I get any
8 of this wrong -- "one of the risks is that
9 Manny's long COVID dysautonomia means his brain
10 is not always getting enough blood."
11 A. **Correct.**
12 Q. Have I read that correctly?
13 A. **Uh-huh.**
14 Q. Is that true?
15 A. **That's true.**
16 Q. Is dysautonomia a recognized condition
17 that affects some people dealing with long COVID?
18 A. **Yes, absolutely.**
19 Q. If a person's brain does not always get
20 enough blood, does that affect or can that affect
21 that person's cognitive functions?
22 A. **Possibly.**
23 Q. Your next sentence says "his BP problems
24 have been more stable now that he is on three
25 medications and has changed his fluid intake to

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1 include an additional 4-6-GMS of salt a day to
2 increase his fluid volume and get the standing
3 fluid balance stabilized." Have I read all that
4 correctly?
5 A. **That's correct. Yes.**
6 Q. BP is what?
7 A. **Blood pressure.**
8 Q. Blood pressure problems.
9 A. **Uh-huh.**
10 Q. What are some of the affects of a blood
11 pressure problem? In other words, what can
12 happen to a person who has blood pressure
13 problems?
14 A. **Specifically, stroke and heart attack**
15 **are two of the most common problems with -- yo**
16 **know, that could be deadly.**
17 Q. This may be a silly question, but is it
18 the case that a person caring for another person
19 would not want a stroke or a heart attack to
20 happen?
21 A. **Yes.**
22 Q. Your next sentence begins, "yesterday
23 his being on a liquid only diet messed up his
24 fluid balance stability." Have I read that
25 accurately?

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1 **A. That's correct, yes.**

2 Q. "Yesterday, his supine BP was

3 dangerously high and his supine BP is normally

4 the lowest BP reading." And then it says,

5 parenthetically, "a characteristic of his subtype

6 of dysautonomia," parenthetically. Have I read

7 that accurately?

8 **A. Yes.**

9 Q. What does that mean, that his being on a

10 liquid only diet messed up his fluid balance

11 stability?

12 **A. Well, with dysautonomia, there's often**

13 **the blood, it pools in the lower extremities.**

14 Q. Okay.

15 **A. And so, you need to have a certain**

16 **amount of food and electrolytes and movement to**

17 **get that blood back up into the brain and into**

18 **the rest of the body, to the heart, the rest of**

19 **the body.**

20 So that is why they add a lot more

21 salt to someone's diet who has dysautonomia. So

22 that they can -- it sort of forces that blood

23 off. They wear compression hose.

24 Q. Did you say compression hose?

25 **A. Yes.**

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1 Q. Like on the legs?

2 **A. Yes, on the legs. They do types of**

3 **resistance, you know, exercise and horizontal**

4 **exercise to help stabilize them of that. But if**

5 **you think of dysautonomia, it's kind of like, I**

6 **guess, in common terms, it's really that it's the**

7 **accelerator and the brake on the car, would be**

8 **like your body. And sometimes your body has that**

9 **flight or fright, and then sometimes it's sort of**

10 **at a resting state.**

11 Q. Okay. That's a great explanation.

12 **A. And it's out of balance with**

13 **dysautonomia.**

14 Q. That's a helpful explanation. Thank

15 you. Is it fair to say that when you state

16 "yesterday, his supine BP was dangerously high

17 and his supine BP is normally the lowest BP

18 reading," is it fair to say that you were

19 describing Dr. Pontes?

20 **A. Yes.**

21 Q. And is it also fair to say that you were

22 describing Dr. Pontes in crisis?

23 **A. Yes.**

24 Q. And that he was in some kind of medical

25 crisis?

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1 **A. Uh-huh.**

2 Q. Is it possible that someone, again, in

3 your experience with your expertise, that someone

4 dealing with, in this kind of crisis, I should

5 say, or should ask, would have difficulty

6 accurately conveying information in realtime?

7 MR. MILES: Object to the form of

8 the question. Go ahead.

9 BY MR. NEEDLEMAN:

10 Q. You can answer.

11 **A. He was probably very stressed and**

12 **probably had a headache. And sometimes you ge**

13 **blurred vision.**

14 And when his blood pressure goes up

15 to that extent, he can get numbness on usually

16 the right side of his face. And inability to

17 really move his legs properly, like he can't

18 drive. And he has trouble with stability,

19 walking.

20 Q. Okay. Your next sentence in this

21 paragraph, says, "today his BP is still elevated,

22 but better after getting some adjustments from

23 his doctor." Do you see where I'm referring?

24 **A. Uh-huh.**

25 Q. Have I read that accurately?

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1 **A. Yes.**

2 Q. "He is less symptomatic and right now

3 having his colonoscopy." Have I read that

4 accurately?

5 **A. That's correct, yes.**

6 Q. Is it the case that -- and I think you

7 described this before, but I'm going to ask you

8 directly. Is it the case that a person

9 experiencing fluctuations in blood pressure can

10 bring that condition under control with some

11 adjustments?

12 MR. MILES: Objection to the form.

13 BY MR. NEEDLEMAN:

14 Q. You can answer.

15 **A. Yes.**

16 Q. Are you aware whether Dr. Pontes ever

17 sat for his deposition, ever completed his

18 deposition?

19 **A. Yes, he did.**

20 Q. Do you remember or know when he did

21 that?

22 **A. He finished -- he started it in February**

23 **and ended it in August.**

24 Q. Was there a stay of proceedings

25 in-between?

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